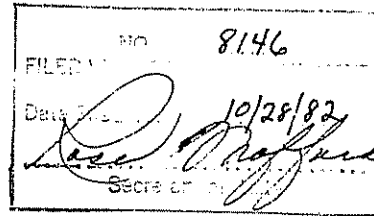


A.G. CONTRACT NO. 82-572

I-10-2(75)  
EHRENBERG-PHOENIX HIGHWAY  
I-10 at Agua Fria River

INTERGOVERNMENTAL AGREEMENT

**29999**



PARTIES:

THIS AGREEMENT is entered into this 28<sup>TH</sup> day of OCTOBER, 1982 pursuant to A.R.S. §11-951 through §11-954, as amended, by and between the State of Arizona acting by and through its Department of Transportation, hereinafter called "State"; by the Flood Control District of Maricopa County, a municipal corporation and political subdivision of the State of Arizona acting through its Board of Directors, hereinafter called "District"; by the County of Maricopa acting by and through its Board of Supervisors, hereinafter called "County"; by the City of Phoenix, a municipal corporation, acting by and through its City Council, hereinafter called "Phoenix"; and by the City of Avondale acting by and through its City Council, hereinafter called "Avondale,"

WHEREAS, the State is empowered by A.R.S. §28-108, 28-112, and 28-114 to enter into this agreement and the Director of the Arizona Department of Transportation has delegated to the undersigned his authorization to execute this agreement on behalf of the State; and

WHEREAS, District is empowered by A.R.S. §§45-2358 and 45-2360 to enter into this agreement and acting by and through its Board of Directors has by that certain Resolution attached hereto and made a part hereof as Exhibit A resolved to enter into this agreement and has authorized the Board Chairman to execute the same on behalf of District; and

WHEREAS, County is empowered by A.R.S. §§11-210 and 11-251 to enter into this agreement and acting by and through its Board of Supervisors has by that certain Resolution attached hereto and made a part hereof as Exhibit B resolved to enter into this agreement and has authorized the Board Chairman to execute the same on behalf of County; and

WHEREAS, Phoenix is empowered by A.R.S. §9-672(b) to enter into this agreement and acting by and through its City Council, evidence of such action is attached hereto and made a part hereof as Exhibit C authorizing Phoenix to enter into this agreement and has authorized the undersigned to execute the same on behalf of Phoenix; and

WHEREAS, Avondale is empowered by A.R.S. §9-672(b) to enter into this agreement and acting by and through its City Council has by that certain Resolution attached hereto and made a part hereof as Exhibit D resolved to enter into this agreement and has authorized the undersigned to execute the same on behalf of Avondale; and

WHEREAS, the District is developing a flood control plan for the Agua Fria River; and

WHEREAS, the State's proposed drainage channel along the north side of Interstate Highway 10 will intercept storm runoff from local streets and roads in an area north of said Interstate 10 from the Agua Fria River, near 123rd Avenue, to 27th Avenue and convey said runoff water to the west to be discharged into the Agua Fria River; and

WHEREAS, said discharge will add a minimal amount to the total storm water discharge of the Agua Fria River; and

WHEREAS, the County is planning to improve and develop McDowell Road in the area of the Agua Fria River and is planning the construction of a bridge and some channelization of the River in this area; and

WHEREAS, Phoenix is constructing and will construct storm drains which will outlet their flows into the above-referenced drainage channel; and

WHEREAS, Avondale is constructing and improving a sewage treatment plant which might be affected by the above-mentioned plans and projects; and  
PURPOSE:

WHEREAS, a duly implemented comprehensive flood control plan would also serve to diminish and reduce adverse effects of the discharge from the I-10 channel and the proposed improvement of McDowell Road and rechannelization of the Agua Fria River and any effects that said work would have on the improvement and construction of the sewage treatment plant of Avondale; and

WHEREAS, the construction of certain alternative flood control features would be more cost effective and achieve a greater public benefit than would the construction of a detention basin as a part of the construction of Interstate Highway 10 from the Agua Fria River east to 27th Avenue; and

WHEREAS, the Federal Government, pursuant to an agreement with State, conditions the receipt of Federal Aid Highway Funds upon the State's contribution of \$5,000,000 to be applied toward the construction of projects to assist in the implementation of the said Agua Fria River flood control plan.

THEREFORE, the parties hereto covenant and agree as follows:

DISTRICT SHALL:

1. Study and develop a flood control plan for the Agua Fria River to reduce and diminish the adverse effects of the storm flow runoff intercepted by the State's drainage channel with major emphasis on projects south of the point of entry of water from the channel.
2. Conduct meetings with authorized representatives of State and interested local governments including Maricopa County, City of Phoenix and the City of Avondale during the study and development period for the purpose of informing them and receiving their input.
3. Select project or projects from the flood control plan to be funded from the \$5,000,000 contribution from the State; award and administer contracts to implement the selected project or projects. Said project(s) and all facilities constructed pursuant thereto shall be completed by September 30, 1986.
4. Submit progressive billing statements to State for payment from the fund hereinafter set forth. District shall be responsible for all costs in excess of said contribution from the State.
5. Make its books and records available for an inspection and audit by State's employees and/or agents during normal business hours.
6. Be responsible for operation and maintenance of the flood control plan and all facilities constructed by the District pursuant to said plan.

STATE SHALL:

1. Establish a fund within its administrative services office from which payment of its contributions shall be made as progressive billings are received from District. It is expressly understood that in no event shall State's cost for this flood control project exceed the total sum of \$5,000,000 and that no payments from said fund are to be used to defray planning or engineering design costs in developing the flood control plan.
2. It is expressly understood that State's participation herein is limited to contributing funding and that State is not involved in and shall have no responsibility for the design, construction, operation or maintenance of any facility constructed pursuant to this agreement.

COUNTY SHALL:

1. Coordinate with District and incorporate any proposed changes in the alignment for channelization of the Agua Fria River in the area of McDowell Road and make allowances for District's plan and State's channel.

PHOENIX SHALL:

1. Pay its share of the \$5,000,000 in accordance with the intergovernmental agreement dated June 15, 1981 and filed with the Secretary of State.

AVONDALE SHALL:

1. Coordinate with District in any construction or expansion of its sewage facilities so that such construction or expansion shall be compatible and take into account District's plan, and State's channel.

DURATION:

1. This agreement shall remain in effect insofar as construction of the plans by District is concerned until the \$5,000,000 fund has been expended subject to the following:

a. The agreement is conditioned upon the allocation of funds by the Legislature and the Arizona Department of Transportation and the Arizona Transportation Board.

b. The \$5,000,000 fund is available during the life of the interstate program. In the event that the funds allocated by the Federal Highway Administration to State for Interstate Highway 10 are withdrawn or temporarily withheld State's obligation shall be limited to the amount already spent or obligated by the District, limited however to the appropriate available federal funds.

2. The operation and maintenance responsibility set out herein shall be perpetual.

TERMINATION:

All parties are hereby put on notice that this agreement is subject to cancellation by the governor pursuant to A.R.S. §38-511.

FILING WITH THE SECRETARY OF STATE:

This agreement shall be filed with the Secretary of State and shall become effective upon the filing date.

IN WITNESS WHEREOF the parties hereto have executed this Agreement this 28<sup>TH</sup> day of OCTOBER, 1982.

STATE OF ARIZONA  
ARIZONA DEPARTMENT  
OF TRANSPORTATION

By: [Signature]

Title: CHIEF DEPUTY STATE ENGINEER

FLOOD CONTROL DISTRICT  
OF MARICOPA COUNTY

By: [Signature]

Title: CHAIRMAN

COUNTY OF MARICOPA

By: [Signature]

Title: CHAIRMAN

MARVIN A. ANDREWS  
CITY MANAGER

BY: [Signature] 7/16/82  
CITY ENGINEER

Title: City Engineer

CITY OF AVONDALE

By: [Signature]

Title: MAYOR

ATTEST:

[Signature] City Clerk

Approved as to form and within the powers and authority granted under the laws of the State of Arizona to the Flood Control District of Maricopa County

[Signature]  
Legal Counsel

ATTEST:

[Signature]  
Clerk of the Board

Date 8-30-82

Approved as to form and within the powers and authority granted under the laws of the State of Arizona to the Maricopa County Board of Supervisors

[Signature]  
Deputy County Attorney

ATTEST:

[Signature]  
ACTING CITY CLERK

APPROVED AS TO FORM and within the power and authority granted under the laws of the State of Arizona to the City of Phoenix.

[Signature]  
Acting City Attorney

APPROVED AS TO FORM and within the power and authority granted under the laws of the State of Arizona to the City of Avondale.

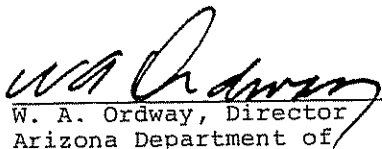
[Signature]  
City Attorney

Project: I-10-2(75)  
Highway: EHRENBURG-PHOENIX  
Section: I-10 at Agua Fria River

RESOLUTION

BE IT RESOLVED on this 21 day of October, 1982,  
that I, W. A. Ordway, as Director, ARIZONA DEPARTMENT OF  
TRANSPORTATION, have determined that it is in the best interests  
of the State of Arizona that the DEPARTMENT OF TRANSPORTATION,  
acting by and through the Highways Division, enter into an  
Intergovernmental Agreement with the Flood Control District of  
Maricopa County, the County of Maricopa, the City of Phoenix  
and the City of Avondale for the purpose of implementing a  
flood control plan in the area of Interstate 10 and the Agua  
Fria River.

Therefore, authorization is hereby given to draft said Agreement  
which, upon completion, shall be submitted for approval and  
execution by the Chief Deputy State Engineer.

  
W. A. Ordway, Director  
Arizona Department of  
Transportation

JDC:ea

RESOLUTION NO 415

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AVONDALE  
MARICOPA COUNTY, ARIZONA AUTHORIZING THE CITY TO ENTER  
INTO AN INTER-GOVERNMENTAL AGREEMENT WITH THE STATE OF  
ARIZONA, MARICOPA COUNTY FLOOD CONTROL DISTRICT, AND THE  
CITY OF PHOENIX.

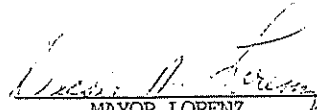
BE IT RESOLVED by the City of Avondale, Maricopa County, Arizona  
as follows:

SECTION 1. The City is hereby authorized to enter into an inter-  
governmental agreement with the State of Arizona, Maricopa County Flood Control  
District, and the City of Phoenix which provides five million dollars for flood  
control in the City of Avondale.

SECTION 2. The Mayor and City Clerk are hereby authorized to execute  
said agreement on behalf of the City.

PASSED AND ADOPTED by the City Council of the City of Avondale this  
4th day of October, 1982.

APPROVED by the Mayor this 4th day of October, 1982.

  
MAYOR LORENZ

ATTEST:

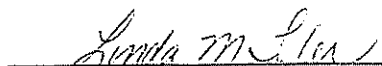
  
CITY CLERK

EXHIBIT D

ORDINANCE NO. S 19466

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA, THE FLOOD CONTROL DISTRICT OF MARICOPA COUNTY, MARICOPA COUNTY, AND THE CITY OF AVONDALE REGARDING FLOOD CONTROL PLANS FOR THE AGUA FRIA RIVER IN CONNECTION WITH I-10 FREEWAY CONSTRUCTION; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PHOENIX  
as follows:

SECTION 1. That the City Manager be, and he is hereby, authorized to execute an intergovernmental agreement with the State of Arizona, the Flood Control District of Maricopa County, Maricopa County, and the City of Avondale pertaining to flood control projects along the Agua Fria River.

SECTION 2. WHEREAS, the immediate operation of the provisions of this ordinance is necessary for the preservation of the public peace, health and safety, an EMERGENCY is hereby declared to exist, and this ordinance shall be in full force and effect from and after its passage by the Council as required by the City Charter and is hereby exempted from the referendum clause of said Charter.

PASSED by the Council of the City of Phoenix this 13  
day of July, 1982.

Margaret T. Hance  
MAYOR

ATTEST:

[Signature] City Clerk

APPROVED AS TO FORM:

[Signature] ACTING  
City Attorney

REVIEWED BY:

[Signature] City Manager

EXHIBIT C

[Signature]  
JWS/rc  
7/12/82



JOINT RESOLUTION  
(FCD no. 82-15)

JOINT RESOLUTION OF THE BOARD OF SUPERVISORS OF MARICOPA COUNTY AND THE BOARD OF DIRECTORS OF THE FLOOD CONTROL DISTRICT OF MARICOPA COUNTY TO ENTER INTO AN AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION, THE CITY OF PHOENIX AND THE CITY OF AVONDALE FOR THE TRANSFER OF FIVE MILLION DOLLARS FROM THE ARIZONA DEPARTMENT OF TRANSPORTATION TO THE FLOOD CONTROL DISTRICT OF MARICOPA COUNTY FOR THE CONSTRUCTION OF FLOOD CONTROL PROJECTS IN THE AGUA FRIA RIVER IN THE VICINITY OF AVONDALE

The Board of Supervisors of Maricopa County and the Board of Directors of the Flood Control District convened in the Supervisors' Auditorium at 205 West Jefferson Street, Phoenix, Arizona, on the 30<sup>th</sup> day of August, 1982, with a quorum present, and in accordance with the recommendations of the Chief Engineer and General Manager of the Flood Control District and the Director of Public Works and County Engineer, adopted the following resolution on a motion made by Mr. Freestone.

WHEREAS, the Flood Control District of Maricopa County is desirous of providing flood control in the Agua Fria River in the vicinity of Avondale; and

WHEREAS, the Board of Directors of the Flood Control District indicated its support for providing flood control on the Agua Fria River by approving FCD Contract 81-2 on January 19, 1981, for a private consultant to study the Agua Fria River and develop flood control projects; and

WHEREAS, the Maricopa County Highway Department is planning to construct the McDowell Road Bridge and is desirous of coordinating flood control and drainage measures on the Agua Fria River; and

WHEREAS, the City of Phoenix is constructing and will construct storm drains which will outlet their flows into the I-10 Diversion Channel and is contributing funds to said channel; and


WHEREAS, the Arizona Department of Transportation is desirous of providing five million dollars to diminish and reduce adverse effects of the discharge from the I-10 Diversion Channel by the construction of flood control projects in the Agua Fria River in the vicinity of Avondale:

NOW, THEREFORE, BE IT RESOLVED, that the Flood Control District of Maricopa County and Maricopa County are authorized to enter into an Agreement with the Arizona Department of Transportation, the City of Phoenix and the City of Avondale for the transfer of five million dollars to the Flood Control District from the Department of Transportation for the construction of flood control projects in the Agua Fria River in the vicinity of Avondale.

BE IT FURTHER RESOLVED that the Chief Engineer and General Manager of the Flood Control District of Maricopa County is authorized and directed to negotiate with private consultants for engineering services required to develop flood control project plans and designs; to negotiate with landowners and/or appropriate agencies to obtain necessary rights-of-entry for survey and soil exploration, property acquisition and/or easements for said flood control projects subject to the ratification and approval of this Board.

BE IT FURTHER RESOLVED that the Chief Engineer and General Manager of the Flood Control District of Maricopa County is authorized and directed to hire, retain or otherwise utilize the professional services of its General Counsel or private counsel to initiate and prosecute actions and proceedings in the manner required by law to condemn any and all rights-of-entry, easements or property required for Agua Fria River flood control projects in the vicinity of Avondale which cannot be obtained by donation or purchase.

DATED this 30<sup>th</sup> day of August, 1982

  
Chairman, Maricopa County Board of  
Supervisors and Chairman, Board of  
Directors, Flood Control District  
of Maricopa County

ATTEST:

  
Clerk of the Boards



OFFICE OF THE  
**Attorney General**

TRANSPORTATION DIVISION  
1275 WEST WASHINGTON  
PHOENIX, ARIZONA 85007  
(602) 255-1680

ROBERT K. CORBIN  
ATTORNEY GENERAL

INTERGOVERNMENTAL AGREEMENT  
DETERMINATION

A.G. Contract No. 82-572, which is an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State or its agencies under the laws of the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 13th day of October, 1982.

ROBERT K. CORBIN  
Attorney General

A handwritten signature in cursive script, reading "James R. Redpatm".

JAMES R. REDPATM  
Assistant Attorney General  
Transportation Division